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File No. 6. Epid. Diseases 42

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Office of the R.L.A.

In his last opinion No. 7297, dated 19th August 1941 the Remembrancer of Legal Afaairs opined; " It would be open to the Provincial Government under section 2 of the Epidemic Diseases Act to direct the G.I.P. Railway to isolate and provide suitable accommodation for persons travelling by railway and suffering from any epidemic disease, but under that section it will not be possible toask the Railway to allot any Particular isolation wards or hospitals in its possession for the use of such persons". This opinion of the Remembrancer of Legal Affairs was concurred in by the Advocate General who observed: "The power to presctibe regulations for the inspection of persons travelling by railway or otherwise, and the segregation in hospital, temporary accommodation or otherwise, of persons suspected by the Inspecting Officer of being infected with any such disease under section 2 (2)(b)of the Act would not include a power to make a regulatio n making it obligatory on a railway authority or a private individual, to allot any particular building, hospital or isolated ward, in its or his possession or occupation for the use of such infected persons"

The question now raised for the consideration of the Remembrancer of Legal Affairs is whether an amendment of regulation 10 of the Cholera Regulations requiring

(a) railway authorities to remove the passengers to the nearest hospital whether the hospital belongs to the railway or not, and

(b) the hospital authorities ~~to~~ even if they are also railway authorities, to admit such patients, would be intrl vires the provisions of section 2 of the Epidmic Diseases Act, 1897.

Section 2(2)(B) provides for power to make regulations for segragation, in hospital, temporary accommodation or otherwise , of persons suspected by the inspecting officer of being infected with any epidemic disease, and under section 2(1) Government can require

any person to take such measures as it shall dee ecessary to prevent the the outbreak or spread of su h disease. Consequently a regulation authorising the railway authorities ~~subsequently a regulation authorising the railway authorities~~ to remove such passengers to the earest hospital would be intra vires, such hospitls will , however, have to be notified for general information and for the guidance of the Railway authorities. The authorities of such hospitl, like any other person, can be called upon either to admit such passengers in the hospital or to make suitable temporary accommodation for them. This action being required to be taken by the hospital authorities in exercise of the powers of the Provincial Government under section 2(1). Consequently the following words may be added to the provisions at the end of the said sub-paragraph (b) at page 46 ante:

" or to make suitable temporary accommodation for such patients".

Sign. P.N.M.

Remembrancer of Legal Affairs.

U.R. to G.D., No.3022, dated the 8 th April 1942.